



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

October 14, 2015

Mr. Russell Brooksbank
1716 Whitier Dr.
Clarksville, IN 47129

*Re: Formal Complaint 15-FC-245; Alleged Violation of the Open Door Law by
the Clarksville Redevelopment Department Steering Committee*

Dear Mr. Brooksbank,

This advisory opinion is in response to your formal complaint alleging the Clarksville Redevelopment Department Steering Committee ("Committee") violated the Open Door Law ("ODL"), Ind. Code § 5-14-3-1 *et. seq.* The Committee has responded to your complaint via Mr. Christopher Sturgeon, Town Attorney. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 4, 2015.

BACKGROUND

Your complaint dated on September 4, 2015 alleges the Clarksville Redevelopment Department Steering Committee violated the Open Door Law by refusing you access to a public meeting

You assert that the Committee held a meeting of on August 27, 2015. You attempted to attend but were informed that the meeting was private. You contend that, since the committee was formed by the town government and manned by more than three elected or appointed officials, the committee is subject to the ODL.

On September 23, counsel responded. Counsel contends that the Committee is not subject to the ODL. Counsel notes that the Committee does not exercise executive, administrative or legislative of the town, nor is it subject to budget review by SBOA.

Counsel notes that the Committee was no appointed directly by the governing body. Instead, the Committee was created at the request of the Director of Redevelopment. Counsel contends that because the Committee does not derive its authority directly from



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the governing body, the ODL does not apply. Finally, counsel notes that the Committee is not manned by a majority of any governing bodies.

ANALYSIS

It is the intent of the Open Door Law (ODL) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. See Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. See Ind. Code § 5-14-1.5-3(a).

According to Ind. Code § 5-14-1.5-2(a)(2) a public agency is:

“[a]ny county, township, school corporation, city, town, political subdivision, or other entity, by whatever name designated, exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power.

The Committee does not appear to fall within this definition. The purpose of the Committee is to study the area to “help create a plan of development for the area.” Given this, the Committee clearly is not exercising power. Instead, it is an advisory committee that will present its findings to the Town of Clarksville. Advisory committees of this nature are not subject to the Open Door Law.

Additionally, in relevant part, under Ind. Code § 5-14-1.5-2(b), a governing body is:

- (2) [two] or more individuals who are:
 - (1) a public agency that:
 - (A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and
 - (B) takes official action on public business;
 - (2) the board, commission, council, or other body of a public agency which takes official action upon public business; or
 - (3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated.

It does not appear as if the Steering Committee meets any of these requirements either. From the information provided, it does not seem as if the Steering Committee was



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created to intentionally subvert or erode the purpose of the Open Door Law and is merely an ad hoc volunteer committee. It matters not that some or all of its members are also public officials sitting on other governing bodies so long as no one board or commission is represented by a majority gathering. It is a committee in name only and does not rise to the level of a public agency or governing body.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor that the Town of Clarksville Steering Committee is not subject to the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Christopher Sturgeon, Esq.